

JUDGE CLOTTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

12 CIV 8578

CASE NO. _____

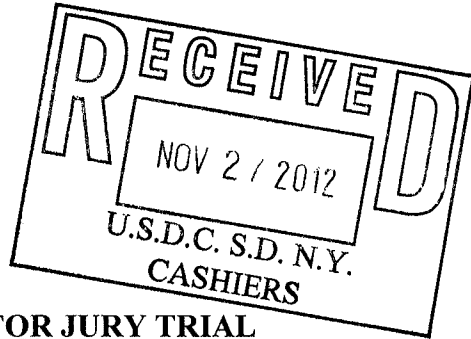
D. O.,

Plaintiff,

v.

KEVIN CLASH,

Defendant.



COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, D. O. (referred to herein as "JOHN"), by and through his undersigned counsel, hereby files this Complaint against Defendant KEVIN CLASH, and states as follows:

PARTIES

1. JOHN is a citizen and resident of the State of Florida. Plaintiff has filed this lawsuit using his initials in order to protect his privacy and because he fears further psychological injury if his name were publicly disclosed, as this lawsuit involves facts of the utmost intimacy regarding Plaintiff's childhood sexual history. Plaintiff's true identity will be made known to the Defendant.

2. Defendant, KEVIN CLASH is a citizen and resident of the State of New York. At all relevant times, KEVIN CLASH was an internationally-known puppeteer and voice actor for children's programming whose characters included the instantly recognizable falsetto-voiced Elmo. Elmo is a character on the television show *Sesame Street*.

JURISDICTION AND VENUE

3. This Court has jurisdiction pursuant to 28 U.S.C. §1331 because Plaintiff alleges

(305) 931-2200

**HERMAN
MERMELSTEIN
& HOROWITZ PA**
ATTORNEYS AT LAW

www.hermanlaw.com

a claim under the laws of the United States.

4. This Court also has jurisdiction over this claim pursuant to 28 U.S.C. § 1332 in that the amount in controversy in this claim exceeds \$75,000, exclusive of interest and costs, and is between citizens of different states.

5. This Court has venue of this action pursuant to 28 U.S.C. §§1391(a) and 1391(b) in that the Defendant is a citizen of this District and is otherwise subject to personal jurisdiction in this judicial district. Additionally, a substantial part of the events giving rise to this claim occurred in this District.

6. At all relevant times Defendant KEVIN CLASH was an unmarried adult male living a prominent public life centered around the entertainment of toddlers, while at the same time he was, in secret, preying on teenage boys to satisfy his depraved sexual interests. KEVIN CLASH was born in 1960.

7. KEVIN CLASH, the voice of Elmo, trolled gay telephone chat line rooms to meet and have sex with underage boys.

COUNT I-
COERCION AND ENTICEMENT TO SEXUAL ACTIVITY
IN VIOLATION OF 18 U.S.C. §2422

8. Plaintiff, JOHN, repeats and re-alleges Paragraphs 1 through 7 above as fully set forth herein.

9. JOHN was born in 1984 and grew up in the southern United States.

10. When JOHN was just 16 years old and attending high school, he travelled to the New York area for modeling opportunities. During these visits, JOHN would stay with friends of his family in New Jersey.

11. At 16 years old, JOHN went on a gay chat line to meet friends who were also gay. JOHN specifically stated his intention on the chat line as non-sexual.

12. JOHN was contacted through the chat line by KEVIN CLASH. KEVIN CLASH said his name was Craig and he was 30 years old. KEVIN CLASH was approximately 40 years old at the time.

13. JOHN and KEVIN CLASH spoke on the telephone for a couple of days and KEVIN CLASH invited JOHN to come to his apartment in Manhattan.

14. JOHN travelled from New Jersey into Manhattan to see KEVIN CLASH at his apartment. KEVIN CLASH gave JOHN alcohol and groomed him. KEVIN CLASH and JOHN engaged in sexual contact, including oral sex and digital penetration of JOHN's anus. This was JOHN's first sexual experience of this type.

15. While in KEVIN CLASH's apartment, JOHN saw numerous Elmo dolls and photographs of Elmo with famous people such as Beyonce and Tyra Banks.

16. Following this initial visit, KEVIN CLASH called JOHN incessantly to arrange meetings for sexual encounters. At that time, JOHN had returned home and was not living in the New York vicinity. Nonetheless, over the next year, KEVIN CLASH kept in contact with JOHN. JOHN told KEVIN CLASH that he intended to move to New York full-time to pursue his modeling career. When JOHN graduated high school he moved to New York City.

17. KEVIN CLASH engaged in a sexual relationship with JOHN once JOHN was living in New York City, after JOHN had turned 18 years old.

18. After he turned 18 years old, JOHN did an internet search for "Kevin Clash" and discovered that KEVIN CLASH was the voice of the Elmo character.

19. KEVIN CLASH used a facility or means of interstate commerce to knowingly persuade, induce or entice JOHN, when he was under the age of 18 years, to engage in sexual activity for which KEVIN CLASH can be charged with a criminal offense.

20. Upon information and belief, KEVIN CLASH frequented this chat room with the

intent of persuading, inducing, coercing or enticing underage boys to meet him for sexual encounters. Consistent with this scheme, upon information and belief, KEVIN CLASH did meet multiple boys for sexual encounters after chatting with them on gay telephone sex lines.

21. KEVIN CLASH's acts and conduct are in violation of 18 U.S.C. §2422.

22. As a result of KEVIN CLASH's violation of 18 U.S.C. §2422, Plaintiff has suffered personal injuries. In particular, as a direct and proximate result of engaging in sexual activity with CLASH as a minor, JOHN suffered severe injuries, including but not limited to mental, psychological and emotional trauma. These injuries are continuing and permanent nature.

23. Although KEVIN CLASH's acts of inducement and enticement to sexual activity began in or about 2000, when JOHN was a minor, he was not immediately aware of his injuries. As a 16 year old child, JOHN was not emotionally or psychologically prepared for a sexual relationship with a grown man in his forties. As a compliant victim, JOHN did not become aware that he had suffered adverse psychological and emotional effects from KEVIN CLASH's sexual acts and conduct until 2012.

24. JOHN did not become aware of his injuries, nor was he able to make a causal connection between his injuries and the sexual acts of KEVIN CLASH until 2012. JOHN could not reasonably have been expected to know that he had been injured and that KEVIN CLASH had caused his injuries until calendar year 2012.

25. Plaintiff retained Herman, Mermelstein & Horowitz, P.A. as his attorneys in this matter and agreed to pay them a reasonable attorneys' fees and costs.

WHEREFORE, Plaintiff, D. O., hereby demands judgment against Defendant, KEVIN CLASH, for all damages available under 18 U.S.C. §2255(a), including without limitation, actual and compensatory damages, costs of suit, and attorneys' fees, and such other and further relief as

this Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial of his claims by jury.

Dated: November 27, 2012.

Respectfully submitted,

HERMAN, MERMELSTEIN & HOROWITZ, P.A.
Stuart S. Mermelstein, Esq., S.D.N.Y. Bar #SM1461
smermelstein@hermanlaw.com
Jeff Herman, Esq.
jherman@hermanlaw.com
(pending admission *pro hac vice*)
Adam D. Horowitz, Esq.
ahorowitz@hermanlaw.com
(pending admission *pro hac vice*)
18205 Biscayne Boulevard, Suite 2218
Miami, Florida 33160
Telephone: (305) 931-2200
Facsimile: (305) 931-0877
www.hermanlaw.com

and

GALLET DREYER & BERKEY LLP
845 Third Avenue - 8th Floor
New York, New York 10022
Tel. (212) 935-3131
Fax (212) 935-4514

By: 

David T. Azrin, Esq.
S.D.N.Y. Bar # DA4747
dta@gdblaw.com